

### **REMARKS**

The Examiner alleges that the claims of the above-titled patent application are directed to two (2) "patentably distinct" species including:

<b>SPECIES</b>	<b>FIGURE</b>
I	5; and
II	6.

Moreover, the Examiner also alleges that only "claims 16 and 33 appear to be generic". Applicant respectfully traverses this allegation.

The following list sets forth Applicant's position on which specie(s) are covered by each of the pending claims.

<b>CLAIMS</b>	<b>SPECIES</b>
16-22	ALL
23-25	I (subspecies I)
26	I (subspecies II)
27-34	ALL
35	II

Thus, it is Applicant's opinion that Claims 16-22 and 27-34 are generic. The following reasons are provided to support Applicant's opinion.

#### **Claims 16-22 and 27-32**

Independent Claim 16 is directed to a closure and container combination including means for engaging the closure to a finish (12) of the container (26), a headspace-displacing member attached to the closure, a clearance (50) defined between the headspace-displacing member and the finish (12) and means for sealing the closure against a sealing surface (13) of the finish (12). In this regard, independent Claim 16

covers both species of the invention, and therefore, according to the Examiner and Applicant, is generic. Dependent Claims 17-22 and 27-32 further define the structure and/or function of the closure and container combination. Thus, dependent Claims 17-22 and 27-32 are likewise considered to be generic.

#### **Claims 33 and 34**

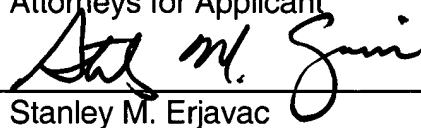
Independent Claim 33, similar to independent Claim 1, is also directed to a closure and container combination, and includes a headspace-displacing member attached to the closure, a clearance (50) defined between the headspace-displacing member and the container finish (12), and means for sealing the closure against a sealing surface (13) of the finish (12). In this regard, independent Claim 33 covers both species of the invention, and therefore, according to the Examiner and Applicant, is generic. Dependent Claim 34 further defines the structure of the closure and container combination. Thus, dependent Claim 34 is likewise considered to be generic.

Accordingly, Applicant believes that Claims 16-22 and 27-34 are generic. In addition, Applicant elects Species I, subspecies I without traverse. In view of this election, Applicant requests the Examiner to consider Claims 23-25 in addition to the generic claims since they are directed to elected Species I, subspecies I. Thus, Applicant agrees to have Claims 26 and 35 withdrawn from consideration as being directed to a non-elected species and a non-elected subspecies with the understanding that these claims will be considered when a generic claim is allowed.

If the Examiner feels further discussion of Applicant's arguments presented will expedite examination of this application, the Examiner is cordially invited to contact Applicant's undersigned attorney at (248) 641-1600.

Respectfully submitted,  
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